UNAPPROVED MINUTES CITY OF MILPITAS CITY COUNCIL SPECIAL MEETING MONDAY, NOVEMBER 28, 2005 6:00 p.m. COUNCIL CHAMBERS

I. ROLL CALL AND PLEDGE OF ALLEGIANCE

Mayor Esteves called the Special Meeting of the City Council to order at 6:00 p.m. Present were: Mayor Esteves, Vice Mayor Gomez, and Councilmembers Livengood, Giordano, and Polanski.

Mayor Esteves led the salute to the flag.

II. CITIZENS FORUM

Mayor Esteves invited members of the audience to address the Council on any subject not on the agenda.

Rob Means, a member of the public, posed questions about why the Council was holding two special meetings to appoint members to the Open Government Subcommittee.

III. APPROVAL OF AGENDA

Motion/Second: Councilmember Giordano/Councilmember Polanski

Motion carried unanimously by a vote of: AYES: 5

NOES: 0

IV. RECOMMENDATIONS FOR APPOINTMENT OF CITY COUNCILMEMBERS TO THE OPEN GOVERNMENT SUBCOMMITTEE

(1) **Motion**: Appoint Vice Mayor Gomez and Councilmember Polanski to the Open Government Subcommittee.

Motion/Second: Mayor Esteves/Councilmember Polanski

(2) **Motion**: Amend original motion to approve Vice Mayor Gomez and remove Councilmember Polanski.

Motion/Second: Councilmember Livengood/Councilmember Giordano

Mayor Esteves stated his objection to the amendment and that it could only be voted on if he accepted the amendment. Councilmember Livengood disagreed stating the amendment could be voted on because it included one of the Mayor's nominations. Assistant City Attorney Pio Roda stated that Councilmember Livengood was correct and that the Council could vote on the amended motion.

Mayor Esteves and Councilmember Livengood entered into a discussion regarding Roberts Rules and the legality of an amended motion. Mayor Esteves stated, for the record, that his motion was for the appointment of both Vice Mayor Gomez and Councilmember Polanski.

Rob Means, a member of the public, stated he was confused and supported the Mayor's recommendation. He inquired why there was no discussion regarding the amendment. Councilmember Polanski responded that the Council could not agree on the appointments to the Open Government Commission so they approved an ordinance to establish an Open Government Subcommittee staffed by two members of the City Council appointed by the Mayor.

Mayor Esteves stated that he wanted to appoint one member of the majority and one member from the minority of the Council to the Open Government Subcommittee, and the amendment to his motion should be nullified.

Assistant City Attorney Pio Roda stated there should be two votes: one vote on whether to accept the amended motion and the second to vote on the amended motion.

Mayor Esteves stated, for the record, that this was not his motion nor his recommendation and stated he is invoking the responsibilities and powers of an elected Mayor.

(3) **Motion:** Accept the amendment by Councilmember Livengood to Mayor Esteves's original motion.

Motion/Second: Councilmember Livengood/Councilmember Giordano

Motion carried by a vote of: AYES: 3

NOES: 2 (Esteves, Polanski)

Councilmember Polanski stated there were two Special meetings set for Monday and Tuesday and an additional item added to the Wednesday Planning Commission meeting. She expressed her dismay with an agenda for Tuesday's meeting to vote on whether to take away the power of the Mayor to make appointments if he does not appoint one of the majority members.

(4) Motion: Amend original motion to approve only Vice Mayor Gomez to the Open Government Subcommittee.

Motion carried by a vote of: AYES: 3

NOES: 2 (Esteves, Polanski)

Mayor Esteves restated his original motion and requested a vote.

Vote on first Motion: Appoint Vice Mayor Gomez and Councilmember Polanski to the Open Government Subcommittee.

Motion/Second: Mayor Esteves/Councilmember Polanski

The Motion failed by a vote of: AYES: 2

NOES: 3 (Gomez, Livengood, Giordano)

Councilmember Livengood requested Vice Mayor Gomez set an Open Government Subcommittee meeting date soon as staff has questions about how to apply the Open Government Ordinance and the forms they need to move forward for the Subcommittee.

Councilmember Polanski requested a memo to full Council on what questions staff has and what forms are needed to implement the Open Government Ordinance, and why this is the first time she has heard about it.

V. ADJOURNMENT

There being no further City Council business, Mayor Esteves declared the meeting adjourned at 6:20 p.m.

Respectfully submitted,

Donna Biles, Deputy City Clerk